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April 4, 2008

**VIA FAX AND FEDERAL EXPRESS**Honorable Gerard E. Lynch  
United States District Court for the  
Southern District of New York  
500 Pearl Street, Room 910  
New York, NY 10007USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4/7/08Re: AXIS Reinsurance Company v. Phillip Bennett, et al.  
Index Nos.: 07-CV-07924 (GEL); 07-CV-01712 (RDD); 08-CV-03242 (GEL)

Dear Judge Lynch:

We represent AXIS Reinsurance Company ("AXIS") in connection with the captioned matters. Together with Helen Kim (counsel to Mr. Klejna) and Ivan Kline (counsel for William Sexton and Gerald Sherer, and who is serving as scheduling representative for the remaining Insureds moving for summary judgment<sup>1</sup>), we write to Your Honor to jointly request that Your Honor approve a briefing schedule which was negotiated and agreed upon by the parties.

On Friday evening, March 28, 2008, counsel to Mr. Klejna filed a motion for summary judgment seeking dismissal from the AXIS Declaratory Judgment Action (docket 07-CV-07924-GEL)<sup>2</sup> and a declaration of coverage under Count 1 of his counterclaim (docket 07-CV-01712-RDD Bankr. SDNY).<sup>3</sup>

<sup>1</sup> In addition to Msrs. Sexton and Sherer, the other Insureds who will be moving for summary judgment are Philip Silverman, Joseph Murphy, Tone Grant, Leo Breitman, Nathan Gantcher, David Harkins, Scott Jaeckel, Thomas Lee, Ronald O'Kelley and Scott Schoen (collectively, the "Other Insureds").

<sup>2</sup> 07-CV-07924 (GEL) is the declaratory judgment complaint AXIS filed in the District Court. Your Honor stayed all litigation in that action until 30 days after a decision on AXIS's appeal of the advancement rulings. Through this letter, AXIS does not intend to waive the defense that filing the summary judgment motion with respect to AXIS's declaratory judgment action was a violation of the litigation stay.

<sup>3</sup> This counterclaim was asserted in the Adversary Action initiated by AXIS (07-CV-01712-RDD). AXIS's complaint in that matter was dismissed by the Bankruptcy Court without prejudice. Your Honor withdrew the

Ltr. to Honorable Gerard E. Lynch  
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Pursuant to Local Rule 6.1(b), AXIS's opposition to Mr. Klejna's motion is due April 11, 2008. AXIS has not requested any previous extensions on this motion.

AXIS has been informed by Mr. Kline that other Insureds intend to file a similar (collective) motion for summary judgment on or before Wednesday, April 9, 2008. The parties request a consolidated briefing schedule for the two summary judgment motions as follows:

Brief in opposition – one brief from AXIS:	May 2, 2008
Reply briefs from the Insureds:	May 23, 2008.

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The parties respectfully request that Your Honor approve this proposed briefing schedule.

Respectfully,

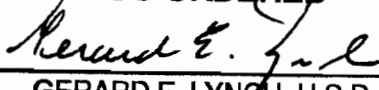
KAUFMAN BORGEEST & RYAN LLP



Wayne E. Borgeest  
Joan M. Gilbride  
Robert A. Benjamin

cc: all counsel (via email only)

\*SO ORDERED



GERARD E. LYNCH, U.S.D.J.

4/4/08

reference on the counterclaims filed in that Adversary Action. The District Court has not yet assigned a new docket number for the counterclaims.

KAUFMAN BORGEEST & RYAN LLP